

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

14 CV 5244

EUGENE ROBERSON,

Plaintiff,

-against-

RETRIEVAL-MASTERS CREDITORS BUREAU
INC. d/b/a AMERICAN MEDICAL,

Defendant.

COMPLAINT

JUDGE KARAS

NOW COMES Plaintiff, Eugene Roberson ("Plaintiff"), by and through his attorneys, Krohn & Moss, Ltd., for his Complaint against Defendant, Retrieval-Masters Creditors Bureau, Inc. d/b/a American Medical ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.* and Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA")

Parties

2. Plaintiff is a natural person residing in Las Vegas, Nevada.
3. Plaintiff is obligated or allegedly obligated to pay a debt and is a consumer as defined by 15 U.S.C. § 1692a(3).
4. Defendant is a business entity with its principal executive office located at 4 Westchester Plaza, Suite 110, Elmsford, New York 10523.
5. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6).

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

7. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

8. Defendant conducts business and is principally located in the State of New York thereby establishing personal jurisdiction.

9. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

Factual Allegations

10. Prior to the filing of this action, an account was placed with Defendant to collect monies from Plaintiff alleged to be owed and past due (“debt”).

11. Upon information and belief, the alleged debt arises from personal medical services.

12. In connection with its attempts to collect the alleged debt, Defendant started placing telephone calls (“collection calls”) to Plaintiff on his cellular telephone, telephone number (702) 204-53xx.

13. Plaintiff never gave Defendant his consent to call his cellular telephone.

14. Defendant has been assigned multiple telephone numbers from its telephone service provider(s) which used to place collection calls to Plaintiff including, but not limited to, 800-804-0057.

15. All of the collection calls were placed using an automatic telephone dialing system or other equipment capable of storing and producing telephone numbers at random or sequential periods to be dialed ("auto dialer").

16. Shortly after the calls began, Plaintiff spoke with Defendant and instructed Defendant to stop calling his cellular telephone.

17. Defendant continued to call Plaintiff's cellular telephone despite is request to stop.

18. Defendant's used an auto dialer to place multiple collection calls to Plaintiff's cellular telephone including, but not limited to, the following:

- 1) 10/23/2012 11:43 AM
- 2) 4/15/2013 4:25 PM
- 3) 4/16/2013 3:44 PM
- 4) 10/18/2013 3:04 PM
- 5) 10/19/2013 2:58 PM
- 6) 10/22/2013 11:00 AM
- 7) 10/23/2013 1:21 PM
- 8) 10/24/2013 1:55 PM
- 9) 10/26/2013 3:10 PM
- 10) 10/29/2013 1:41 PM
- 11) 10/29/2013 7:37 PM
- 12) 10/31/2013 3:21 PM
- 13) 11/5/2013 12:29 PM
- 14) 11/6/2013 6:56 PM
- 15) 11/7/2013 12:32 PM
- 16) 11/13/2013 8:27 PM
- 17) 11/14/2013 12:35 PM
- 18) 11/15/2013 1:35 PM
- 19) 11/16/2013 3:12 PM
- 20) 11/18/2013 3:08 PM
- 21) 11/20/2013 12:00 PM
- 22) 11/21/2013 1:33 PM
- 23) 11/21/2013 6:32 PM
- 24) 12/27/2013 11:29 AM
- 25) 12/30/2013 11:23 AM
- 26) 12/30/2013 6:24 PM
- 27) 1/2/2014 2:46 PM
- 28) 1/3/2014 12:21 PM

29) 1/8/2014 11:25 AM
30) 1/8/2014 3:10 PM
31) 1/14/2014 1:17 PM
32) 1/15/2014 2:05 PM
33) 1/15/2014 4:17 PM
34) 1/18/2014 12:15 PM
35) 1/25/2014 2:47 PM
36) 1/28/2014 1:12 PM
37) 1/29/2014 4:31 PM
38) 1/30/2014 11:50 AM
39) 2/4/2014 1:02 PM
40) 2/4/2014 7:05 PM
41) 2/6/2014 2:28 PM
42) 2/6/2014 6:52 PM
43) 2/8/2014 5:36 PM
44) 2/11/2014 11:53 AM
45) 2/12/2014 3:51 PM
46) 2/13/2014 4:19 PM
47) 2/28/2014 12:21 PM
48) 2/28/2014 3:00 PM
49) 3/1/2014 3:34 PM
50) 3/3/2014 12:59 PM
51) 3/5/2014 12:10 PM
52) 3/5/2014 12:10 PM
53) 3/6/2014 3:23 PM
54) 3/12/2014 4:32 PM
55) 3/18/2014 3:17 PM
56) 3/19/2014 2:56 PM
57) 3/21/2014 12:51 PM
58) 3/22/2014 2:29 PM
59) 3/24/2014 3:10 PM
60) 3/26/2014 1:09 PM
61) 3/28/2014 3:23 PM
62) 3/29/2014 1:23 PM
63) 4/2/2014 1:00 PM
64) 4/3/2014 1:31 PM
65) 4/4/2014 12:32 PM
66) 4/5/2014 2:25 PM
67) 4/7/2014 1:53 PM
68) 12/27/2013 8:29 AM
69) 12/30/2013 8:23 AM
70) 1/25/2014 12:47 PM
71) 1/25/2014 11:47 AM
72) 1/25/2014 1:47 PM
73) 1/28/2014 11:12 AM
74) 1/28/2014 10:12 AM

75) 1/29/2014 2:31 PM
76) 1/29/2014 1:31 PM
77) 1/30/2014 9:50 AM
78) 1/30/2014 8:50 AM
79) 2/4/2014 11:02 AM
80) 2/4/2014 10:02 AM
81) 2/4/2014 5:05 PM
82) 2/4/2014 4:05 PM
83) 2/6/2014 12:28 PM
84) 2/6/2014 11:28 AM
85) 2/6/2014 4:52 PM
86) 2/6/2014 3:52 PM
87) 2/8/2014 3:36 PM
88) 2/8/2014 2:36 PM
89) 2/11/2014 9:53 AM
90) 2/11/2014 8:53 AM
91) 2/12/2014 1:51 PM
92) 2/12/2014 12:51 PM
93) 2/13/2014 2:19 PM
94) 2/13/2014 2:34 PM
95) 2/13/2014 1:19 PM
96) 2/28/2014 10:21 AM
97) 2/28/2014 1:00 PM
98) 3/1/2014 1:34 PM
99) 3/3/2014 10:59 AM
100) 3/5/2014 10:10 AM
101) 3/5/2014 10:10 AM
102) 3/6/2014 1:23 PM
103) 3/12/2014 2:32 PM
104) 3/18/2014 1:16 PM
105) 3/19/2014 12:55 PM
106) 3/21/2014 10:51 AM
107) 3/22/2014 12:29 PM
108) 3/24/2014 1:10 PM
109) 3/25/2014 12:56 PM
110) 3/26/2014 11:09 AM
111) 3/28/2014 1:23 PM
112) 3/29/2014 11:23 AM
113) 4/2/2014 11:00 AM
114) 4/3/2014 11:31 AM
115) 4/4/2014 10:32 AM
116) 4/5/2014 12:25 PM
117) 4/7/2014 11:53 AM
118) 4/9/2014 10:42 AM

19. Plaintiff is annoyed and feels harassed by Defendant's continued collection calls to his cellular telephone.

CLAIM FOR RELIEF
Fair Debt Collection Practices Act

20. Defendant's violations of the FDCPA include, but are not limited to, the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress or abuse Plaintiff in connection with the collection of a debt; and
- b. Defendant violated §1692d(5) of the FDCPA by causing Plaintiff's telephone to ring repeatedly and continuously with the intent to annoy, abuse, and/or harass Plaintiff;

21. Plaintiff is entitled to his attorney's fees and costs incurred in this action.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

- (1) Statutory damages of \$1000.00 pursuant to 15 U.S.C. § 1692k;
- (2) Reasonable attorneys' fees, costs pursuant to 15 U.S.C. § 1692k; and
- (3) Awarding such other and further relief as may be just, proper and equitable.

Telephone Consumer Protection Act

22. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

23. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory

damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

24. Plaintiff is entitled to his attorney's fees and costs incurred in this action.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

(1) Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

(2) Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

(3) All court costs, witness fees and other fees incurred; and

(4) Awarding such other and further relief as may be just, proper and equitable.

Dated: June 23, 2014

KROHN & MOSS, LTD.

By: 

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